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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,941	08/07/2006	Louis Mazuy	13816/10000	9781
26646 7590 09/22/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
MONDT, JOHANNES P				
ART UNIT		PAPER NUMBER		
3663				
MAIL DATE		DELIVERY MODE		
09/22/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/588,941

Applicant(s)

MAZUY, LOUIS

Examiner

JOHANNES P. MONDT

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 8-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- Group I, claims 8-11, drawn to a device for moving a bar for controlling reactivity in a core of a pressurized water nuclear reactor.
- Group II, claims 12-14, drawn to a method for mounting a device for moving a bar for controlling a reactivity in a core of a pressurized water reactor.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: as Applicant's Admitted Prior Art, Applicant teaches (Figure 1, page 2, line 21 – page 4, line 15) and page 8, lines 10-11, page 8, line 20 – page 10, line 17) a device capable of moving a bar for controlling reactivity in a core of a pressurized water nuclear reactor inside a vessel enclosing the reactor core closed off by a vessel head (page 8, lines 22-25), comprising:

 a fuel rod 6 (page 9, lines –3 and Figure 1) furnished with an arrangement capable of attaching the control bar at one axial end (loc.cit.);

 an electromechanical arrangement (comprising magnetic coils 5a, 5b, 5c: page 8, line 31 – col. 9, l. 1, and Figure 1) capable of moving the control rod in an axial direction (loc.cit.); and a sealed containment 2/3/4 (Figure 1 and page 8, lines 25-27) attached to the vessel head in a penetration opening comprising:

 an adapter tube 2 (Figure 1 and page 89, lines 28-30 and page 10, lines 1-3) welded into the opening of the vessel head (page 8, lines 22-25);

 a tubular mechanism housing 3 (Figure 1 and page 8, lines 28+) connected to the adapter (interpreted as “adapter tube”) on which is mounted the electromagnetic arrangement for moving the control rod (loc.cit.); and

 a tubular sheath 4 (Figure 1, page 8, lines 28-30) configured to allow the control rod to be axially moved between two extreme positions, closed at a first end and open at a second end (Figure 1 and page 3, lines 10-15), attached in the axial outward

extension of the housing (interpreted as "tubular mechanism housing") (Figure 1 and page 3, lines 15-20), by the tubular sheath's second open end, wherein the adapter 2 and the mechanism housing are made in a single piece (met in Fig.1, while "made in a single piece", as far as the limitation is not merely a product-by-process limitation and as such has any patentable component, in broadest reasonable interpretation meaning: "abutting and attached"), and the housing comprises, at an axial end opposite the adapter 2, an internal tapping 3a (Figure 1 and page 9, line 20+: internal tapping met by "tapped part") and a sealing lip in a shape of a portion of a torus ("torus-shaped sealing lip" 3b: Figure 1 and page 9, line 21) surrounding the housing (Figure 1) and made in an external surface having a cylindrical free joining surface having as an axis the axis of the housing (Figure 1 and page 3, lines 1-3), and that the tubular sheath 4 comprises, at the second, open, end, a thread matching the tapping 3a of the housing (though 4a) capable of being attached by screwing in a coaxial position into the housing (Figure 1 and page 9, lines 19-23), and a sealing lip 4b (Figure 1 and page 9, lines 19-25) in a shape of a portion of a torus of dimensions matching those of the sealing lip of the housing having a cylindrical free joining end surface having as axis the sheath axis (Figure 1 and page 9, lines 22-23), the sealing lips of housing and sheath having free ends facing one another in final structure (including screwing and welding) (Figure 1 and page 9, lines 19- page 10, line 13), while the weld seam is annular with filler metal coaxial with housing and sheath (page 9, lines 19-25; "filler metal" considered inherent in welding) while examiner takes official notice that depth parallel to the axis of the joint and width perpendicular to the latter that are inherent "substantially" constant along the circumference for any "quality weld" as disclosed to be conventional (page 9, lines 26-27). In the latter regard applicant is reminded that "substantially" is a very broad limitation (MPEP 2173.05(b) and case law referred to therein).

Examiner concludes that claim 1 lacks a special technical feature since claim 1 is anticipated by the prior art as admitted by applicant. Therefore, claims 1 and 12 lack the same or corresponding special technical feature.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

3. The examiner has required restriction between product and process claims.

Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHANNES P. MONDT whose telephone number is (571)272-1919. The examiner can normally be reached on 7:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Johannes P Mondt/
Primary Examiner, Art Unit 3663